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May 28, 2014

LETTER FILED BY ECF

Honorable Joan M. Azrack
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room 605N
Brooklyn, New York 11201

RE: DJ Action: *Empire Fire and Marine Ins. Co. v. Image Rent A Car Inc., et al.* (Case No. 1:13-cv-05122-ARR-JMA)

Dear Magistrate Judge Azrack:

We represent plaintiff, Empire Fire and Marine Insurance Company ("Empire"), in the above referenced matter. We write to update our April 29, 2014 letter to Your Honor regarding our monitoring of Image Rent A Car Inc. ("Image")'s Chapter Seven bankruptcy proceedings in the United States Bankruptcy Court of the Eastern District of New York, Case Number 11-42390 (NHL). We recently learned that the bankruptcy proceedings concluded on May 23, 2014, upon the filing of Judge Nancy Hershey Lord's "Order Dismissing Case Pursuant to 11 U.S.C. Sec. 707(a)." A copy of the Order is attached hereto as Exhibit No. 1.

Based upon the dismissal of Image's bankruptcy proceeding, the automatic stay of this action, with regard to Image, should be lifted. See 11 U.S.C. § 362(c)(2)(B). At the initial conference on November 20, 2013, Your Honor scheduled discovery to conclude by February 20, 2014. Due to the automatic stay, Empire was not able to conduct any discovery with Image. Therefore, the parties require a new discovery completion date. We are unsure of whether the bankruptcy of Image will impact its participation in this

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action. Therefore, we request sufficient time to both conduct discovery and possibly obtain Image's, or its principal's, cooperation in the discovery process.

Should Your Honor have any questions or concerns, please do not hesitate to contact us.

Respectfully submitted,

COUGHLIN DUFFY LLP



Adam M. Smith

Adam A. Alster

CC via ECF: Elisa Rosenthal, Esq. (Counsel for Image)
Martin J. Weiser, Esq. (Counsel for Coicou)

Exhibit No. 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

IMAGE RENT A CAR, INC.,

Chapter 7
Case No. 11-42390 (NHL)

Debtor.
-----X

ORDER DISMISSING CASE PURSUANT TO 11 U.S.C. § 707(a)

Upon the Amended Cross Motion to Dismiss Case [Dkt. No. 90], as supplemented [Dkt. Nos. 102, 104-106] (the “**Dismissal Motion**”) filed by Digby Adler Group LLC d/b/a Bandago (“**Digby**”) seeking, *inter alia*, the dismissal, pursuant to 11 U.S.C. § 707(a) for cause, of the bankruptcy case of Image Rent A Car, Inc. (the “**Debtor**”); and the Debtor having filed a response in opposition to the Dismissal Motion [Dkt. No. 109]; and Digby having filed a reply to Debtor’s response in opposition to the Dismiss Motion [Dkt. No. 110]; and Gregory Messer, Esq., the Chapter 7 Trustee (the “**Trustee**”) of the Debtor’s bankruptcy estate having filed a response in opposition to the Dismissal Motion [Dkt. No. 111]; and Digby having filed a reply to the Trustee’s response in opposition to the Dismiss Motion [Dkt. No. 112]; and Digby having also made a request for the Court to refer this matter for investigation pursuant to 18 U.S.C. § 3057 (“**Referral Request**”) [Dkt. Nos. 102, 104-106]; and Digby having filed supplemental papers to its Referral Request [Dkt. Nos. 125-131]; and a hearing having been held on February 5, 2014; and upon an adjourned hearing having been held on May 14, 2014 (the “**Hearing**”) matters pertaining to the Debtor’s case including the Dismissal Motion and Referral Request, the transcript of which is incorporated by reference; and Barbie D. Lieber, Esq., Lieber & Lieber, LLP, having appeared at the Hearing on behalf of Digby; and Gary F. Herbst, Esq. and Jordan Pilevsky, Esq., LaMonica Herbst & Maniscalco, LLP, having appeared at the Hearing as general counsel to the Trustee; and Daniel Gershburg, Esq., Daniel Gershburg, P.C., having appeared at

the Hearing as special counsel to the Trustee; and the Trustee having appeared at the Hearing; and Bruce Weiner, Esq., Rosenberg Musso & Weiner, LLP, having appeared at the Hearing on behalf of the Debtor, Schneior Zilberman, Adir Group, Inc., Adir Rent A Car, Inc., Adir Plaza, Inc., and Gad Sebag; and Richard Klass, Esq., Law Offices of Richard Klass, having appeared at the Hearing on behalf of Group Travel Solution, Inc.; and all the parties at the Hearing having consented to the dismissal of the Debtor's case; and the Court having found "cause" under 11 U.S.C. § 707(a) to dismiss the Debtor's case; and the parties having reviewed and consented to the terms of the instant order; and no additional notice being necessary or required; it is hereby

ORDERED, that the Debtor's case is dismissed pursuant to 11 U.S.C. § 707(a); and, it is further

ORDERED, that Digby shall pay the amount of \$1,125 to "David R. Maltz and Co., Inc." and delivered to their offices at 39 Windsor Place, Central Islip, New York 11722 so as to be received by no later than May 23, 2014, and such payment shall not be deposited until the entry of the instant Order; and it is further

ORDERED, that the Trustee and his professionals, including David R. Maltz and Co. Inc., shall take any and all necessary steps to have the Financed Vehicles (as that term is defined in a stipulation dated March 17, 2014 and denominated docket number 121-1) returned to their respective secured lenders; and, it is further

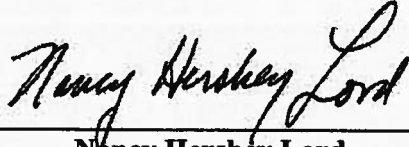
ORDERED, that the Trustee shall be authorized to return to Bruce Weiner, Esq., as counsel, all funds received as installment payments under that certain proposed settlement stipulation denominated as docket number 87-1; and, it is further

ORDERED, that this Court shall retain limited jurisdiction in connection with Digby's request to refer the Debtor's case for investigation under 18 U.S.C. § 3507(a) (previously defined as the "Referral Request"); and, it is further

ORDERED, that the Trustee is authorized to do such things, execute such documents and expend such funds as may be necessary to effectuate the terms and conditions of this Order.

Dated: May 23, 2014
Brooklyn, New York





Nancy Hershey Lord
United States Bankruptcy Judge